

Message Text

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ORIGIN L-03

INFO OCT-01 ARA-16 ISO-00 USIA-15 JUSE-00 SCA-01 CIAE-00

INR-11 NSAE-00 RSC-01 /048 R

DRAFTED BY L/M/SCA:JABOYD:EJS
APPROVED BY L/M/SCA:KEMALMBORG
USIA: E. HIDALGO
JUSTICE: B. RISTAU (SUBS)
ARA/EP: R.WEBBER (SUBS)
L/ARA:D.GANTZ (INFO)
DESIRED DISTRIBUTION
JUSTICE: B.RISTAU; USIA: E.HIDALGO
----- 046134
R 302315Z JUL 74
FM SECSTATE WASHDC
TO AMEMBASSY QUITO

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E.O. 11652:N/A
TAGS: PFOR, EC
SUBJECT: QUITO BI-NATIONAL CENTER CLAIMS
REF: A) USIA 15615; B) QUITO 4941; C)QUITO A-54, 6/14/74

1. DEPT APPRECIATES DEEP CONCERN OF EMBASSY EXPRESSED IN
REFTEL B. FOR REASONS NOT NOW KNOWN, QUITO A-54 DID NOT
ARRIVE IN L UNTIL JULY 17. QUITO A-68 ARRIVED JULY 30.
LAWYERS OF JUSTICE, USIA, AND STATE CONFERRED JULY 24
CONCERNING SUBJECT CLAIMS AND TENTATIVELY CONCLUDED
THAT SERVICE OF PROCESS FROM ECUADOREAN SUPREME COURT
SHOULD BE REFUSED PURSUANT TO DIPLOMATIC IMMUNITIES
CONFERRED BY VIENNA CONVENTION ON DIPLOMATIC RELATIONS
DONE AT VIENNA APRIL 18, 1961, TO WHICH ECUADOR AND USG
ARE PARTIES, BUT THAT USG SHOULD PAY ALL VALID CLAIMS,
IF ANY, DUE TO CLAIMANTS. USIA AWAITS OPINION REQUESTED
BY HIDALGO FROM BUSTAMENTE IN ORDER TO EVALUATE THE
VALIDITY OF THESE CLAIMS. BEFORE RESPONDING OFFICIALLY
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TO NOTES FILED ON BEHALF OF ECUADOREAN SUPREME COURT,

DEPT WOULD VERY MUCH LIKE THE BENEFIT OF SAID BUSTAMENTE
OPINION. IN ARRIVING AT OUR DECISION, WE NEED ADVICE
CONCERNING THE VALIDITY OF THESE CLAIMS AND THE PRESENT
STATE OF LIQUIDATION OF THE RESIDUAL ASSETS AND LIABILI-
TIES OF THE BI-NATIONAL CENTER (BNC) SO THAT WE CAN
DETERMINE TO WHAT EXTENT, IF ANY, THE USG SHOULD ASSUME
THE LIABILITIES WHICH WE NOW BELIEVE BELONG TO THE BNC
AS A SEPARATE JURIDICAL ENTITY. IN THE EVENT THAT

BUSTAMENTE IS OF THE OPINION THAT USG IS LIABLE WITHOUT
REGARD TO THE DEFENSE OF DIPLOMATIC IMMUNITY, THE DEPT
WOULD PREFER TO ACKNOWLEDGE SUCH LIABILITY AND ARRANGE
FOR PAYMENT IN RESPONSE OF USG WHICH ALSO CLAIMED DIPLO-
MATIC IMMUNITY ON BEHALF OF NAMED DEFENDANTS INSTEAD OF
CLAIMING DIPLOMATIC IMMUNITY WITHOUT ADDRESSING MERITS
OF CLAIM WHICH WE BELIEVE ON THE BASIS OF EXPERIENCE
IN OTHER LIKE CASES WOULD LIKELY RESULT IN ATTEMPTS TO
SERVE LEGAL PROCESS AND IN FURTHER LITIGATION.

2. IN LIKE CASES IN OTHER COUNTRIES, DELAY OF 60 DAYS
BEFORE RESPONDING TO SUCH CLAIMS IS NOT CONSIDERED
UNUSUAL. CAN EMBASSY DELAY ANSWER OF NOTE UNTIL AFTER
OPINION OF BUSTAMENTE HAS BEEN FORWARDED TO DEPARTMENT? KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LITIGATION, DIPLOMATIC PROTESTS, BINATIONAL CENTERS, DIPLOMATIC NOTES, CLOSURE OF OFFICES
Control Number: n/a
Copy: SINGLE
Draft Date: 30 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE165823
Document Source: CORE
Document Unique ID: 00
Drafter: JABOYD:EJS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740207-1009
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t1974075/aaaaadtf.tel
Line Count: 84
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A) USIA 15615; B) QUITO 4941; C) QUIT, O A-54, 6/14/74
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 25 MAR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <25 MAR 2002 by collinp0>; APPROVED <14 MAY 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: QUITO BI-NATIONAL CENTER CLAIMS
TAGS: PFOR, EC, US, USIA, (BELL, HOLLEY MACK), (HIDALGO, EDWARD), (BUSTAMANTE),
To: QUITO
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005